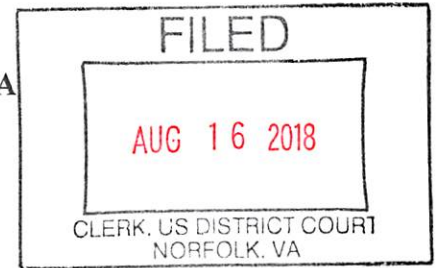


UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



CALVIN A. TUCKER-EL,

Petitioner,

v.

CIVIL ACTION NO. 2:17cv385

HAROLD W. CLARKE, Director,  
Virginia Department of Corrections,

**FINAL ORDER**

Before the Court is a Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 and the Respondent's Motion to Dismiss the Petition. On May 17, 2012, following a bench trial in the Circuit Court for Lancaster County, Petitioner was found guilty of rape, object sexual penetration, burglary, and possession of burglary tools arising from an attack on an 89 year old woman in her home. By judgment of conviction entered on or about August 20, 2012, Petitioner was sentenced to a total of 190 years of incarceration, with 115 years suspended. In his Petition, the *pro se* Petitioner alleges violations of his constitutional rights in relation to the proceedings that led to his conviction and sentence and the state courts' later affirmations of the same.

The Petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation filed July 2, 2018, recommends dismissal of the Petition with prejudice. On August 1, 2018, the Petitioner filed objections to the Report and

Recommendation.<sup>1</sup> The Respondent has not responded to the Petitioner's objections and the time to do so has expired.

The Court, having reviewed the record and examined the objections filed by Petitioner to the Report and Recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation filed July 2, 2018. It is, therefore, **ORDERED** that the Respondent's Motion to Dismiss, ECF No. 5, be **GRANTED**, and that the Petition, ECF No. 1, be **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that judgment be entered in favor of the Respondent.

The Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment.


The Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right, and therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and forward to counsel of record for the Respondent.

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<sup>1</sup>On July 27, 2018, the Court received Petitioner's Motion for an Extension of Time to file written objections to the Report and Recommendation. ECF No. 17. Before the Court could respond to the motion, Petitioner filed his Objections on August 1, 2018. Therefore, the Court considers Petitioner's objections timely filed and the Motion for an Extension, ECF No. 17, is **DENIED** as **MOOT**.

It is so **ORDERED**.



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**Raymond A. Jackson**  
**United States District Judge**

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RAYMOND A. JACKSON  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia  
August 6, 2018